



Citizens for Waters, 249 E. Ocean Blvd #685, Long Beach, CA 90802 (FEC Committee ID #C00167585) is the Congressional campaign committee supporting the Waters re-election campaign. It is also a slate mailer committee in the State of California.

Kamala Harris for Senate, 777 S. Figueroa Street Suite 4050, Los Angeles, CA 90017 (C00571919) is the Senate campaign committee supporting Harris re-election campaign.

### Facts.

The facts supporting this complaint are all taken from materials publicly available, principally Federal Election Commission records and California state campaign finance records. All material facts relied upon in this complaint are cited as to their source.

On October 17, 2016 the principal campaign committee for Maxine Waters, Citizens for Waters, disclosed a Schedule A line 15 contribution of \$35,000 from the Democratic State Central Committee of California for a slate mailer payment.<sup>1</sup> See Exhibit 1. On October 25, 2016 the Citizens for Waters campaign filed a slate mailer 401 with the State of California disclosing the same receipt of \$35,000 from the Democratic State Central Committee of California.<sup>2</sup> See Exhibit 2. The memo on this filing was slightly different from the FEC filing. The slate mailer filing stated the \$35,000 was earmarked for the Kamala Harris campaign for the United States Senate.

A review of the Kamala Harris for Senate campaign shows an itemized disbursement for a primary election slate mailer to Citizens for Waters in the amount of \$30,000 on May 16, 2016.<sup>3</sup> See Exhibit 3. No other itemized disbursements were made to the Citizens for Waters campaign committee by the Kamala Harris Senate campaign committee for the remainder of the 2016 election cycle.

### Apparent Violations.

It is apparent that the \$35,000 contribution to the Citizens for Waters campaign committee from the Democratic State Central Committee of California was a coordinated communication between the committees to place Kamala Harris on the slate ballot for the 2016 general election. This coordinated contribution violates campaign finance contribution limits under 2 USC 431(8)(A)(i), 11 CFR 100.52, 2 USC 432(e)(3) and 441a(a)(2)(A).

Two key provisions within the Federal Election Campaign Act of 1971 are the focus of this complaint. The first provision is the exempt party activities provision, which applies to the slate mailer exemption the Citizens for Waters committee uses to operate as a dual principal campaign committee and State of California slate mailer committee. Advisory Opinion 2004-37 allows Citizens for Waters to receive reimbursement from candidates to appear on the slate mailer being produced by the Citizens for Waters campaign committee. The second provision is the coordinated communication regulations found in 11 CFR 109.21.

<sup>1</sup> Citizens For Waters, FEC Form 3, 12-Day Pre-Election Report for the General (12G) Election, December 8, 2016.

<sup>2</sup> Citizens for Waters Slate Mailer Committee, Form 401, October 25, 2016.

<sup>3</sup> Kamala Harris for Senate, FEC Form 3, Transaction id: VPEAEA23XD9, May 16, 2016.

In Advisory Opinion 2004-37<sup>4</sup> the FEC approved the Citizens for Waters campaign committee's operation of a slate mailer in the State of California. See Exhibit 4. The advisory opinion stated, "The Commission determines that the payments by either the Waters Committee or PHP for the brochure would not constitute support of, or in-kind contributions to, any Federal candidate appearing in the brochure, so long as the authorized committee of that Federal candidate reimburses the Waters Committee or PHP within a reasonable period of time." The advisory opinion goes on to say, "The Commission concludes that reimbursements by the authorized committees of the Federal candidates listed in the brochure in amounts equal to the attributable costs associated with the production and distribution of the proposed brochure within a reasonable period of time would not constitute "anything of value" to the Waters Committee or PHP under 2 U.S.C. 431(8)(A)(i) and 11 CFR 100.52. Therefore, such reimbursements would not be subject to the Act's limits at 2 USC 432(e)(3) and 441a(a)(2)(A)."

It is clear the \$35,000 contribution violates the provisions cited in Advisory Opinion 2004-37 as the Kamala Harris for Senate committee did not reimburse Citizens for Waters for candidate Harris placement in the slate ballot for the 2016 general election that Citizens for Waters produced. It is also apparent that the Democratic State Central Committee of California made the \$35,000 contribution to Citizens for Waters for the purpose of influencing a Federal election in support of federal candidate, Kamala Harris, thus making this payment a coordinated communication under 11 CFR 109.21.

### Conclusion

The Democratic State Central Committee of California's \$35,000 contribution to Citizens for Waters violated campaign finance limits as it was made with the expressed purpose of placing candidate Kamala Harris on the Citizens for Waters slate card for the 2016 general election. This contribution cannot be considered an exempt party activity because the Democratic State Central Committee of California was not producing the slate mailer for Kamala Harris. The contribution cannot be considered an exempt reimbursement for slate mailers because the Kamala Harris for Senate campaign committee did not make the reimbursement to the Citizens for Waters slate mailer. This contribution was a coordinated communication as defined by 11 CFR 109.20. Therefore normal campaign contribution limits apply, putting this contribution well over those limits.

National Legal and Policy Center is asking the Commission to audit the Citizens for Waters campaign committee in light of the facts we have laid out in this complaint. Since the Commission has given federal campaigns broad discretion involving slate mailers it is imperative the issues cited in this complaint are fully investigated and all penalties and fines that may result from a finding that the Citizens for Waters campaign was in violation of the statutes cited should be applied in full. Anything less would undermine the confidence of the public in the integrity of the campaign finance system.

---

<sup>4</sup> Federal Election Commission Advisory Opinion 2004-37.

Complainant, upon information and belief, swears under penalty of perjury that the statements and facts of this Complaint are true and correct to the best of his knowledge and belief.

NATIONAL LEGAL AND POLICY CENTER



Thomas J. Anderson  
Director, Government Integrity Project

State of Florida  
County of Broward

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_, Notary Public

1604447461

**FLORIDA JURAT**  
**FS 117.05**

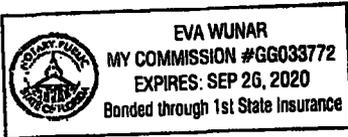
State of Florida  
County of Broward }

Sworn to (or affirmed) and subscribed before me this

30 day of July, 2018  
Day Month Year

by Thomas J. Anderson  
Name of Person Swearing or Affirming

Eva Wuniar  
Signature of Notary Public — State of Florida



EVA WUNAR  
Name of Notary Typed, Printed or Stamped

- Personally Known  
 Produced Identification

Type of Identification Produced: Florida Drivers License

Place Notary Seal Stamp Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Election Federal Actions Commissions Complaint

Document Date: 7/30/2018 Number of Pages: 4

Signer(s) Other Than Named Above: None



# Slate Mailer Organization Campaign Statement

(Government Code Sections 84218-84219)

Type or print in ink.

COVER PAGE

SEE INSTRUCTIONS ON REVERSE

Statement Covers Period

from 09/25/2016  
through 10/22/2016

Date Stamp

1/6

FOR OFFICIAL USE ONLY



## I Slate Mailer Organization Information

FULL NAME OF SLATE MAILER ORGANIZATION:

**CITIZENS FOR WATERS**

ID NUMBER

**1271833**

ADDRESS NO AND STREET

CITY STATE ZIP CODE PHONE NUMBER

Los Angeles CA 90010

NAME OF TREASURER:

David Gould

ADDRESS NO AND STREET

CITY STATE ZIP CODE DAYTIME PHONE NUMBER

Los Angeles CA 90010

## III Summary of Payments

	(A) Total This Period	(B) Cumulative to Date (Since January 1 of calendar year covered)
1 TOTAL PAYMENTS RECEIVED	\$ 155000.00 <small>Sch. A, Line 3</small>	\$ 258000.00
2 TOTAL PAYMENTS MADE	\$ 2500.00 <small>Sch. B, Line 3</small>	\$ 96250.00

Committee Report Attached

ID Number if Recipient Committee

## II Is This A General Purpose Committee?

If this Slate Mailer Organization is also a "general purpose committee" as defined in Government Code Section 82027.5, check box and attach the committee's campaign disclosure report to this statement.

## IV Verification

I have used all reasonable diligence in preparing this statement. I have reviewed the statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 10/25/2016 At \_\_\_\_\_  
DATE CITY AND STATE

By David L. Gould

SIGNATURE OF RESPONSIBLE OFFICER

Name of Responsible Officer David L. Gould  
TYPE OR PRINT

Title: Treasurer





COURTESY OF THE CALIFORNIA STATE BAR

# Schedule A Payments Received

SCHEDULE A

Statement covers period  
 from 09/25/2016  
 through 10/22/2016

CALIFORNIA  
 1992 FORM 401

4/6

SEE INSTRUCTIONS ON REVERSE  
 NAME OF SLATE MAILER ORGANIZATION: CITIZENS FOR WATERS

I.D NUMBER  
1271833

(1) DATE RECEIVED	(2) IDENTIFICATION OF PERSONS FROM WHOM \$100 OR MORE HAS BEEN RECEIVED THIS PERIOD (SEE IMPORTANT INSTRUCTIONS ON REVERSE)	(3) (a) NAME, OFFICE SOUGHT, AND JURISDICTION OF CANDIDATE/ MEASURE SUPPORTED OR LETTER OF BALLOT MEASURE SUPPORTED OR OPPOSED (IF DIFFERENT THAN COLUMN 2)	(b) CHECK BOX TO INDICATE IF PAYMENT WAS RECEIVED TO SUPPORT OR OPPOSE CANDIDATE OR MEASURE INCLUDED IN SLATE MAILER		(4) AMOUNT RECEIVED THIS PERIOD	(5) CUMULATIVE AMOUNT RECEIVED SINCE JANUARY 1 PER CANDIDATE
			SUPPORT	OPPOSE		
10/19/2016	Safe, Clean Neighborhood Parks And Open Space for All  Los Angeles CA 90017 Reference No:	Los Angeles County  A	X		7500.00	7500.00
10/19/2016	Yes On The Los Angeles County Traffic Improvement Plan  Los Angeles CA 90017 Reference No:	Los Angeles County  M	X		35000.00	35000.00
10/21/2016	Saves Lives California, A Coalition of Doctors, Dentists, Health Plans, Labor, And  Sacramento CA 95814 Reference No:	Non-Profit Health Advocate Organizations  Statewide  56	X		10000.00	10000.00
<b>Summary</b>					<b>SUBTOTAL</b>	<b>\$ 155000.00</b>

- Amount Received - Payments of \$100 or More (include all Schedule A subtotals) ..... \$ \_\_\_\_\_
- Amount Received - Payments of Less than \$100 (Not itemized) ..... \$ \_\_\_\_\_
- Total Payments Received (Line 1 + Line 2) Enter here and in Column A, Line 1, of the Summary of Payments section on Page 1 ..... \$ \_\_\_\_\_



**Schedule C  
Persons Receiving  
\$1,000 Or More**

SEE INSTRUCTIONS ON REVERSE

NAME OF SLATE MAILER/ORGANIZATION:

CITIZENS FOR WATERS

Statement covers period from <u>09/25/2016</u> through <u>10/22/2016</u>	SCHEDULE C CALIFORNIA 401 992-0011
	6/6
	I.D. NUMBER 1271833

You must identify each individual listed on your Statement of Organization (Form 400) who received, directly or indirectly, \$1,000 or more from the organization during the period. (See Instructions on reverse regarding "indirect" payments.)

NAMES OF INDIVIDUALS RECEIVING \$1,000 OR MORE	AMOUNT THIS PERIOD	CUMULATIVE SINCE JANUARY 1
Gould & Orellana, LLC	2500.00	2500.00





FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 21, 2004

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2004-37

Joseph M. Birkenstock, Esq.  
Smith Kaufman LLP  
777 S. Figueroa Street  
Suite 4050  
Los Angeles, CA 90017-5864

Dear Mr. Birkenstock:

This responds to your letters dated September 27 and October 7, 2004, on behalf of (1) Representative Maxine Waters, (2) Citizens for Waters (the "Waters Committee"), which is Representative Waters' principal campaign committee, and (3) People Helping People ("PHP"), which is Representative Waters' "leadership PAC" and is a multicandidate committee, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the production and distribution by either committee of a brochure<sup>1</sup> listing and expressly advocating the election of certain Federal and non-Federal candidates.

Your request raises two principal issues. The first is whether the proposed brochure would constitute support of, or be an in-kind contribution to, the authorized committees of the Federal candidates listed in the brochure, where each Federal candidate listed in the brochure will reimburse whichever committee produces and distributes the brochure for the full costs attributable to that candidate. The second issue is whether reimbursements by the Federal candidates constitute support of, or would be contributions to, the Waters Committee or PHP, subject to the Act's applicable contribution limits.

---

<sup>1</sup> Although you describe the document you plan to produce as a "sample ballot," because certain candidates will be featured more prominently than others and because the document will include brief commentary by Representative Waters about the candidates listed, the document is not simply a sample ballot. Accordingly, this advisory opinion will refer to the document as a "brochure."

The Commission concludes that the proposed brochure would not constitute support of, or be an in-kind contribution to, the Federal candidates listed in the brochure, provided that the Federal candidates provide reimbursements in the appropriate amount in a timely manner. The Commission also concludes that reimbursements by the Federal candidates for their attributable portion of the costs would not constitute support of, or be contributions to, the Waters Committee or PHP. Additionally, this advisory opinion discusses how the Waters Committee or PHP should determine the cost attributable to each candidate and should report both the initial payments for production and distribution of the brochure and the reimbursements by the Federal candidates. Finally, this advisory opinion sets forth the disclaimer requirements for the proposed brochure.

### ***Background***

Representative Waters is the U.S. Representative from the 35<sup>th</sup> Congressional District of California and a candidate for re-election to that office in the November 2, 2004, general election. You state that, through either the Waters Committee or PHP, Representative Waters intends to produce and distribute a brochure that will expressly advocate the election of clearly identified Federal and non-Federal candidates in the November 2, 2004, general election. The brochure will be distributed by U.S. Mail.

The brochure will feature a prominent picture or likeness of Representative Waters on the front page. It will be promoted as Representative Waters' "official sample ballot" and will contain brief quotes, which convey her opinions and endorsements of the Federal and non-Federal candidates listed.

You anticipate that the brochure will include Presidential candidate Senator John Kerry, Vice-Presidential candidate Senator John Edwards, U.S. Senator Barbara Boxer, U.S. Representatives Juanita Millender-McDonald and Diane Watson, perhaps other U.S. House candidates, and candidates for various non-Federal offices. You represent that Federal candidates will be included in the brochure only if their principal campaign committees reimburse for the full production and distribution costs of the brochure attributable to them.

You state that candidates will be given space and prominence in the brochure in rough proportion to their prominence on the Democratic ticket. Senators Kerry and Edwards will be portrayed very prominently, statewide candidates and U.S. House candidates less so, and local candidates generally will only be listed on a ballot line resembling an actual voting ballot. The listings of the candidates will be accompanied by endorsements of varying lengths. All endorsements will be printed in Representative Waters' handwriting.

You indicate that several different versions of the brochure will be produced and distributed in order to reflect accurately the actual ballot within the recipient's voting precinct. Accordingly, any candidate other than Representative Waters will only be included in brochures that are mailed to precincts where he or she is on the actual ballot on November 2, 2004. More than 500 pieces of each version of the brochure will be mailed and the total distribution of all versions will be approximately 200,000 pieces.

Finally, you state that you are not requesting the Commission's opinion regarding the application of the Act and Commission regulations to any arrangements with, or payments by, non-Federal candidates or their committees, but instead you limit your advisory opinion request to the arrangements with, and payments by, any Federal candidates who will be included in the proposed brochure.

### ***Legal Analysis and Conclusions***

1. *Would the proposed brochure constitute support of, or be an in-kind contribution to, the authorized committees of the Federal candidates listed in the proposed brochure where all Federal candidates listed in the brochure will reimburse the Waters committee or PHP for their attributable portion of the brochure's production and distribution costs?*

Depending on which committee pays for the production and distribution of the proposed brochure, your request implicates two separate sections of the Act and Commission regulations. First, if the Waters Committee pays for the production and distribution of the proposed brochure, it would implicate the limits that the Act and Commission regulations place on the *support* that a principal campaign committee or authorized committee of a Federal candidate may provide to other Federal candidates or their committees. See 2 U.S.C. 432(e)(3)(A) and (B); 11 CFR 102.12(c)(1) and (2); 11 CFR 102.13(c)(1) and (2). Second, if PHP (which has only a Federal account) pays for the brochure, it would implicate the limits that the Act and Commission regulations place on *contributions* to candidates by multicandidate committees. See U.S.C. 441a(a)(2)(A) and 110.2(b)(1). Both the limits on support by principal campaign committees and the contributions limits on multicandidate committees would be triggered if the proposed brochure were an in-kind contribution to the Federal candidates listed in the brochure. The brochure would be an in-kind contribution if it were a coordinated communication under 2 U.S.C. 441a(a)(7)(B)(i) and 11 CFR 109.21.

The Act defines as an in-kind contribution an expenditure made by any person "in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents." 2 U.S.C. 441a(a)(7)(B)(i). The Commission's "coordinated communication" regulation at 11 CFR 109.21 specifies that a payment for a communication is made for the purpose of influencing a Federal election, and is an in-kind contribution to the candidate or authorized committee with whom or which it is coordinated if it satisfies the following three-pronged test: (1) the communication must be paid for by a person other than the Federal candidate or authorized committee in question; (2) one or more of the four content standards set forth in 11 CFR 109.21(c) must be satisfied; and (3) one or more of the six conduct standards set forth in 11 CFR 109.21(d) must be satisfied. See 11 CFR 109.21(a), (b)(1).

In the present case, because you represent that each Federal candidate will be included in the brochure only if he or she reimburses the Waters Committee or PHP for the full production and distribution costs attributed to him or her, the proposed brochure would not satisfy the payment prong of the coordinated communication test. Accordingly, the Commission determines

that the payments by either the Waters Committee or PHP for the brochure would not constitute support of, or in-kind contributions to, any Federal candidate appearing in the brochure, so long as the authorized committee of that Federal candidate reimburses the Waters Committee or PHP within a reasonable period of time. See Advisory Opinions 2004-1 (concluding that communications produced and distributed by one candidate's authorized committee and coordinated with a second candidate's authorized committee would not result in an in-kind contribution to the second authorized committee so long as the second committee reimbursed the first committee for the attributed portion of the coordinated communications) and 2004-29 (reaching a similar conclusion with respect to a coordinated communication by a State ballot committee and the authorized committee of a Federal candidate). Thus, because the proposed brochure would not be an in-kind contribution to any of the Federal candidates listed in it, the production and distribution of the brochure would not be subject to the limits of either 2 U.S.C. 432(e)(3) or 441a(a)(2)(A).

You represent in your October 7 letter that "federal candidates who do not pay a proportionate share of the expenses of the ballot under 11 C.F.R. § 106.1 will not be included in the ballot." The Commission assumes that if PHP produces and distributes the sample ballot, the Waters Committee, like the authorized committees of all the other Federal candidates listed, will reimburse PHP for the full costs attributable to Representative Waters.

2. *Would reimbursements by the authorized committees of the Federal candidates listed in the brochure constitute support of, or be contributions to, the Waters Committee or PHP and thus be subject to the Act's applicable contribution limits?*

This question implicates the same sections of the Act and Commission regulations as your first question. The Commission concludes that reimbursements by the authorized committees of the Federal candidates listed in the brochure in amounts equal to the attributable costs associated with each candidate's listing would not constitute support of the Waters Committee or contributions to PHP because, in this situation, mere reimbursement of the costs associated with the production and distribution of the proposed brochure within a reasonable period of time would not constitute "anything of value" to the Waters Committee or PHP under 2 U.S.C. 431(8)(A)(i) and 11 CFR 100.52. See Advisory Opinion 2004-1. Therefore, such reimbursements would not be subject to the Act's limits at 2 U.S.C. 432(e)(3) and 441a(a)(2)(A). To the extent that any reimbursement by a candidate's authorized committee exceeds the costs attributed to that candidate, such excess reimbursement would constitute a contribution either to the Waters Committee or PHP and would be subject to the Act's applicable contribution limit. See 2 U.S.C. 432(e)(3)(B); 2 U.S.C. 441a(a)(1)(C); 11 CFR 102.12(c)(2); 11 CFR 110.1(d).

3. *How should the Waters Committee or PHP calculate the amount of the brochure's production and distribution costs attributable to each candidate listed in the brochure?*

Commission regulations provide for the attribution of the expenses of a communication that is for the purpose of influencing the election of more than one candidate. Under 11 CFR 106.1, expenditures made on behalf of more than one clearly identified Federal candidate shall be

attributed to each such candidate according to the benefit reasonably expected to be derived. In the case of a publication such as the proposed brochure, the attribution shall be determined by the proportion of space devoted to each candidate as compared to the total space devoted to all candidates, 11 CFR 106.1(a)(1). The regulation makes clear that this attribution method also applies to payments involving both expenditures on behalf of one or more clearly identified Federal candidates and disbursements on behalf of one or more clearly identified non-Federal candidates, 11 CFR 106.1(a). Thus, attribution is determined by the proportion of space devoted to each candidate, as compared to the total space devoted to all candidates, whether Federal or non-Federal.

Your proposed brochure will feature a prominent picture or likeness of Representative Waters, will be promoted as her official "sample ballot," and will expressly advocate the election of each of the other identified candidates. The Commission concludes that the costs of a particular version of the brochure must be attributed to each Federal or non-Federal candidate, including Representative Waters, according to the space devoted to such candidate in proportion to the space devoted to all candidates. Given that different versions of the brochure will be distributed, and not every candidate will appear in all versions, the calculation of the costs attributable to a particular Federal or non-Federal candidate must also take into account the varying shares and costs attributable to each version of the brochure.

4. *How should the Waters Committee or PHP report (a) the initial payments for the production and distribution of the brochure and (b) the reimbursements by the candidates listed in the brochure for their attributed portion of these costs?*

The Waters Committee (on FEC Form 3) or PHP (on FEC Form 3X) must report all the production and distribution costs of the proposed brochure as operating expenditures and, likewise, report reimbursements by each authorized committee of the individual candidates listed in the brochure as offsets to operating expenditures. 2 U.S.C. 434(b)(2)(I) and (4)(A); 11 CFR 104.3(a)(2)(vii) and (3)(ix); 11 CFR 104.3(b)(1)(i) and (2)(i). Assuming that the costs attributable to each candidate will exceed \$500, either the Waters Committee or PHP must disclose the costs attributable to each of the candidates as a debt owed to it on Schedule D of the 30-Day Post General Election Report and future reports, unless a candidate's complete reimbursement occurs on or before November 22, 2004, the closing date of the Post General Election Report.<sup>2</sup> 2 U.S.C. 434(b)(8); 11 CFR 104.11(a) and (b).

With the itemized entries under "operating expenditures," the Waters Committee or PHP should include a notation stating: "Exp. for mailing - see AO 2004-37." For each of the entries under "offsets to operating expenditures," the notation should read: "Reimb. for mailing - see AO 2004-37." Moreover, any related entries on Schedule D should state "For mailing - see AO 2004-37."

---

<sup>2</sup> The debt will no longer have to be disclosed after the report covering the period in which the debt is completely extinguished.

5. *What are the disclaimer requirements for the proposed brochure?*

Because more than 500 pieces of each version of the proposed brochure will be distributed by U.S. Mail, each version of the brochure will be a "mass mailing"<sup>3</sup> and therefore will constitute a public communication.<sup>4</sup> Under the Act and Commission regulations, public communications that are paid for by candidates, or their authorized committees or agents of either, must also include a disclaimer that clearly states that the communication has been paid for by the authorized political committee. 2 U.S.C. 441d(a); 11 CFR 110.11(a)(1) and (b)(1). Accordingly, the proposed brochure must include a disclaimer stating that the brochure has been paid for by the authorized committees of each Federal candidate appearing in the brochure. The Commission has previously allowed for some flexibility in listing candidate names in a disclaimer notice. See Advisory Opinion 1994-13 and MUR 2216. In this case, the Commission determines that, instead of listing each Federal candidate's committee in the disclaimer, the Waters Committee or PHP would also satisfy the Act's disclaimer requirements by marking each paying candidate with an asterisk and including a statement on the mailing declaring that the brochure was "paid for by the authorized committees of the candidates marked with an asterisk."

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity.

Sincerely,

(signed)

Ellen L. Weintraub  
Vice Chair

Enclosures (AOs 2004-29, 2004-1 and 1994-13)

<sup>3</sup> A "mass mailing" is defined at 11 CFR 100.27 as "a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period."

<sup>4</sup> "Public communication" is defined in 2 U.S.C. 431(22) and 11 CFR 100.26 as "a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising."



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 27, 2018

Thomas J. Anderson  
National Legal and Policy Center  
107 Park Washington Court  
Falls Church, VA 22046

Dear Mr. Anderson:

This is to acknowledge receipt of your letter on July 26, 2018, regarding possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Act and Commission Regulations require that the contents of a complaint meet certain specific requirements. Your letter does not meet these requirements. Specifically, your letter was not sworn to sufficiently, as required under the Act.

In order to file a legally sufficient complaint, the complaint must be signed, and its contents sworn to, by the individual filing the complaint in the presence of a notary public. *See* 52 U.S.C. § 30109(a)(1). The preferred form is "**Subscribed and sworn to before me on this \_\_\_\_ day of \_\_\_\_, 201\_\_.**" It is not sufficient for the notary to state that an individual acknowledged a document before him or her.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. *See* 52 U.S.C. § 30109. If you have any questions concerning this matter, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Mary deBeau".

Mary deBeau  
Paralegal Specialist  
Complaints Examination  
& Legal Administration